

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES WILLIAMS,

Defendant and Appellant.

B292942

(Los Angeles County
Super. Ct. No. TA116538)

THE COURT:*

In 2011, a jury convicted Charles Williams (defendant) of robbery, attempted robbery, and battery, and found that he personally used a firearm pursuant to Penal Code section 12022.53, subdivision (b)¹ in case No. TA116538. ² The trial court

¹ Unless otherwise indicated, all further statutory references are to the Penal Code.

imposed a prison sentence of 20 years, of which 13 years and four months was attributable to the firearm enhancements. When defendant was sentenced in 2011, the trial court had no discretion to strike or dismiss a firearm use enhancement. (*People v. Arredondo* (2018) 21 Cal.App.5th 493, 506.) However, Senate Bill No. 620 (SB 620) amended the statute, effective January 1, 2018, to give trial courts the discretion, in limited circumstances, pursuant to section 1385, to strike a firearm enhancement in the interests of justice. (Sen. Bill No. 620 (2017-2018 Reg. Sess.) Stats. 2017, ch. 682; *People v. Billingsley* (2018) 22 Cal.App.5th 1076, 1079-1080 & fn. 7.) In September 2018, defendant filed a motion asking the court to exercise this newfound discretion to strike his firearm enhancements. Defendant now appeals from the trial court's denial of his request to strike.

We appointed counsel to represent him on this appeal. Counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, and requested this court to independently review the record on appeal to determine whether any arguable issues exist. On May 1, 2019, we advised defendant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. We received no response.

We affirmed defendant's conviction on October 23, 2012 (*People v. Williams*, 2012 Cal.App. Unpub. LEXIS 7631

² In case No. BA383041, a jury found defendant guilty of 12 counts of robbery, with findings that he personally used a firearm. The trial court sentenced defendant to serve 26 years in prison consecutive to the sentence imposed in this case. Division Four of this court affirmed the conviction on February 19, 2013. (*People v. Williams*, 2013 Cal.App. Unpub. LEXIS 1219 (B239136).)

(B236012)), and the remittitur was issued on December 27, 2012, indicating that the decision was final. For the purpose of determining retroactive application of an amendment to a criminal statute “a judgment is not final until the time for petitioning for a writ of certiorari in the United States Supreme Court has passed.” (*People v. Vieira* (2005) 35 Cal.4th 264, 306.) For defendant, that time passed on March 27, 2013, which was the last day he could have filed a petition for writ of certiorari from the judgment of conviction in case No. TA116538.

SB 620 and the associated amendment to section 12022.53, apply retroactively only to *nonfinal* judgments (*People v. Harris* (2018) 22 Cal.App.5th 657, 659; *In re Estrada* (1965) 63 Cal.2d 740, 745) and do not contain language authorizing resentencing of convictions after they became final. Absent any new authority to resentence defendant under SB 620, the trial court lacked jurisdiction to grant defendant’s request. (See *People v. Chlad* (1992) 6 Cal.App.4th 1719, 1725.) Because the trial court lacked jurisdiction to modify defendant’s sentence, denial of his motion to modify his sentence could not have affected his substantial rights. (*Id.* at p. 1726.) Accordingly, the “order denying [the] motion to modify sentence is not an appealable order,” and the appeal must be dismissed. (*Ibid.*)

The appeal is dismissed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.